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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/590,162	07/12/2007	Vincent W. Talbert	70481.115	4070
27683 7590 09/12/2011 HAYNES AND BOONE, LLP IP Section 2323 Victory Avenue Suite 700 Dallas, TX 75219				
EXAMINER				
CHANG, EDWARD				
ART UNIT		PAPER NUMBER		
3691				
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09/12/2011		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/590,162

**Applicant(s)**

TALBERT ET AL

**Examiner**

EDWARD CHANG

**Art Unit**

3691

**Period for Reply** -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on 28th of June 2011.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-44 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-44 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-846)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### Status of Claims

1. This action is in reply to the response filed on 28<sup>th</sup> of June 2011.
2. No claims were added or amended.
3. Claims 1-44 are currently pending and have been examined.

### Response to Arguments

4. Applicant's arguments filed 28<sup>th</sup> of June 2011 have been fully considered but they are not persuasive. Referring to the previous Office action, Examiner has cited relevant portions of the references as a means to illustrate the systems as taught by the prior art. As a means of providing further clarification as to what is taught by the references used in the first Office action, Examiner has expanded the teachings for comprehensibility while maintaining the same grounds of rejection of the claims, except as noted above in the section labeled "Status of Claims." This information is intended to assist in illuminating the teachings of the references while providing evidence that establishes further support for the rejections of the claims.
5. With regard to the limitations of claims 1, 24, and 44, Applicant argues it was incorrect to take official notice on "...and wherein the action is based on non-merchant defined rules." The Examiner respectfully disagrees. First of all, the above mentioned limitation is not found in the specification as mentioned in rejection below. Nothing was found in paragraphs 50-53. And furthermore, concept of defining non-merchant rules is well known in the art. **However, to emphasize how well known it is in art, examiner will cite Devoe et al. (US 2002/0099648 A1) in abstract where it talks about user setting up and administering usage line by the user for credit card account.**

**Claim Rejections - 35 USC § 112**

6. Claims 1-44 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Applicant states paragraph 50-53 discloses the limitation "...the action is based on non-merchant defined rules". Please clarify where the support is located. Examiner is still having trouble locating where this is taught by the specification.

**Claim Rejections - 35 USC § 103**

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

9. Claims 1-44 are rejected under 35 U.S.C. 103 (a) as being unpatentable over Lee et al. (hereinafter "Lee"); (US 2002/0099649 A1) in view of **Official Notice**.

**As per Claims 1, 24, 44:**

Lee as shown discloses the following limitations:

- *receiving a consumer transaction data set including a plurality of data fields into a central credit issuer database;* (See at least Fig.3, Item 304, 322)
- *determining, by a processor of a credit issuer, a processing queue based upon the data contained in at least one of the data fields in the consumer transaction data set, the processing queue including a plurality of prioritized target transactions;* (See at least Fig.3, Item 302, 320)
- *comparing, by the processor, at least one data field from the consumer transaction data set directed to the consumer engaged in the prioritized target transaction with at least one data field in at least one of the central credit issuer database and a third party database;* (See at least Fig.3, Item 308, 314, 326)
- *determining, by the processor, an identifier based upon the comparison;* (See at least Page 5, Paragraph 0081+, "...determine whether a given transaction of a purchaser is fraudulent (fraud scores)...compare that transaction with prior transactions of the purchaser...")
- *transmitting, by the processor, information based on the identifier to the merchant instructing the merchant of an action to take, wherein the transmitting is completed prior to at least one of goods being shipped by the merchant to the consumer and services being performed by the merchant.* (See at least Page 5, Paragraph 0075+, "...merchant's fraud-risk prediction system to **automatically** determine actions based on the fraud scores...")

However, Lee specifically does not mention action is based on non-merchant defined rules. But examiner believes this is an obvious modification of the art to allow non-merchant to modify the rule. Therefore, examiner takes **Official Notice** that third-parties like administrator of the system can also make changes to the rules.

- *and wherein the action is based on non-merchant defined rules.*

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify Lee's system for transaction processing to allow non-merchant to

make modifications to rules. This would help merchants to allow third-party middle man to maintain and administrate the system.

**As per Claim 2:**

Combination of Lee/**Official Notice** discloses the limitations as shown in the rejections above.

Furthermore, Lee also discloses the following limitations:

- *comprising the step of contacting the consumer to verify the transaction based upon the identifier in step (d).* (See at least Page 27, Paragraph 0348+, "...customer contacted...")

**As per Claim 3:**

Combination of Lee/**Official Notice** discloses the limitations as shown in the rejections above.

Furthermore, Lee also discloses the following limitations:

- *wherein at least one of steps (b)-(d) are performed by a central credit issuer.* (See at least Page 24, Paragraph 0290+, "...authorized by the issuer...")

**As per Claims 4, 25:**

Combination of Lee/**Official Notice** discloses the limitations as shown in the rejections above.

Furthermore, Lee also discloses the following limitations:

- *wherein at least one of steps (a)-(d) are automatically performed by a computing device.* (See at least Fig.2, Item 200, 112, 102)

**As per Claims 5, 26:**

Combination of Lee/**Official Notice** discloses the limitations as shown in the rejections above.

Furthermore, Lee also discloses the following limitations:

- *wherein the computing device is at least one of a personal computer, a networked device, a laptop, a palmtop, a personal digital assistant and a server.* (See at least Fig.2, Item 200, Proxy server)

**As per Claims 6, 28:**

Combination of Lee/**Official Notice** discloses the limitations as shown in the rejections above.

Furthermore, Lee also discloses the following limitations:

- *wherein the consumer transaction data set includes at least one field populated with data reflecting the transaction and/or the consumer. (See at least Page 1, Paragraph 0003+, "...name, address...")*

**As per Claims 7, 29:**

Combination of Lee/**Official Notice** discloses the limitations as shown in the rejections above.

Furthermore, Lee also discloses the following limitations:

- *wherein the central credit issuer database includes a plurality of fields populated with data reflecting the consumer. (See at least Page 2, Paragraph 0039+, "...name, address, phone number...")*

**As per Claims 8, 30:**

Combination of Lee/**Official Notice** discloses the limitations as shown in the rejections above.

Furthermore, Lee also discloses the following limitations:

- *wherein the third party database includes a plurality of fields populated with data reflecting the consumer. (See at least Page 2, Paragraph 0039+, "...name, address, phone number..."); (Also see at least Page 7, Paragraph 0116+, "...other transaction information sources...")*

**As per Claims 9, 31:**

Combination of Lee/**Official Notice** discloses the limitations as shown in the rejections above.

Furthermore, Lee also discloses the following limitations:

- *wherein the central credit issuer database includes at least one sub-database containing at least one field therein. (See at least Page 7, Paragraph 0116+, "...other transaction information sources...")*

**As per Claims 10, 32:**

Combination of Lee/**Official Notice** discloses the limitations as shown in the rejections above.

Furthermore, Lee also discloses the following limitations:

- *wherein the central credit issuer database includes at least one of: (i) a transaction database including fields populated by data reflecting transaction information; (ii) a verification database including fields populated by data reflecting verification information; and (iii) a credit issuer database including fields populated by data reflecting credit issuer information. (See at least Page 3, Paragraph 0043+, "...information about the requested transaction...")*

**As per Claim 11:**

Combination of Lee/**Official Notice** discloses the limitations as shown in the rejections above.

Furthermore, Lee also discloses the following limitations:

- *receiving a third party data set from at least one third party database into the central credit issuer database. (See at least Fig.1, Item 129)*



**As per Claim 12:**

Combination of Lee/**Official Notice** discloses the limitations as shown in the rejections above.

Furthermore, Lee also discloses the following limitations:

- *Receiving a credit issuer consumer credit history data set from a credit issuer into the central credit issuer database.* (See at least Page 4, Paragraph 0066+, "...the historical data...")

**As per Claims 13, 33:**

Combination of Lee/**Official Notice** discloses the limitations as shown in the rejections above.

Furthermore, Lee also discloses the following limitations:

- *comprising the step of categorizing the prioritized target transaction based upon the identifier, thereby providing a categorized target transaction.* (See at least Page 7, Paragraph 0116+, "...three categories of information...")

**As per Claims 14, 34:**

Combination of Lee/**Official Notice** discloses the limitations as shown in the rejections above.

Furthermore, Lee also discloses the following limitations:

- *wherein an action is performed based upon the categorized target transaction.* (See at least Page 7, Paragraph 0116+, "...evaluation...")

**As per Claims 15, 35:**

Combination of Lee/**Official Notice** discloses the limitations as shown in the rejections above.

Furthermore, Lee also discloses the following limitations:

- *wherein the action is at least one of: (i) interacting with the merchant; (ii) interacting with the customer; (iii) communicating with the merchant; (iv) communicating with the customer; (v) gathering additional transaction data; (vi) gathering additional customer*

*data; (vii) gathering additional merchant data; (viii) approving the categorized transaction; (ix) denying the categorized transaction; (x) queuing the categorized transaction for further delayed action; (xi) interacting with the central credit issuer database; and (xii) requesting further data from at least one of the customer, the merchant, a credit issuer, a credit issuer database, a third party and a third party database. (See at least Page 7, Paragraph 0116+)*

**As per Claims 16, 36:**

Combination of Lee/**Official Notice** discloses the limitations as shown in the rejections above.

Furthermore, Lee also discloses the following limitations:

- *comprising the step of determining a verification queue at least partially based upon the identifier, thereby providing at least one verification target consumer. (See at least Page 4, Paragraph 0067+, "...scoring system...")*

**As per Claims 17, 37:**

Combination of Lee/**Official Notice** discloses the limitations as shown in the rejections above.

Furthermore, Lee also discloses the following limitations:

- *performing an action directed to at least one of the verification target consumer and the verification target transaction. (See at least Page 4, Paragraph 0065+, "...scoring request and estimates...")*

**As per Claims 18, 38:**

Combination of Lee/**Official Notice** discloses the limitations as shown in the rejections above.

Furthermore, Lee also discloses the following limitations:

- *wherein the verification queue is dynamically determined and modified in a real-time format. (See at least Page 7, Paragraph 0116+, "...dynamic and static components...updated in real-time with each other...")*

**As per Claims 19, 39:**

Combination of Lee/**Official Notice** discloses the limitations as shown in the rejections above.

Furthermore, Lee also discloses the following limitations:

- *wherein the verification queue is determined based upon a set of predetermined rules directed to at least one of the data fields of at least one of the consumer transaction data set, the central credit issuer database and the identifier.* (See at least Page 5, Paragraph 0076+, "...eFalcon system operates....using the rule engine...")

**As per Claims 20, 40:**

Combination of Lee/**Official Notice** discloses the limitations as shown in the rejections above.

Furthermore, Lee also discloses the following limitations:

- *wherein the processing queue is dynamically determined and modified in a real-time format.* (See at least Page 5, Paragraph 0075+, "...formulated as computational rules...rule engine integrating a real-time decision making process into the merchant's order fulfillment system...")

**As per Claims 21, 41:**

Combination of Lee/**Official Notice** discloses the limitations as shown in the rejections above.

Furthermore, Lee also discloses the following limitations:

- *wherein the processing queue is determined based upon a set of predetermined rules directed to at least one of the data fields of the consumer transaction data set.* (See at least Page 5, Paragraph 0075+, "...formulated as computational rules...")

**As per Claims 22, 42:**

Combination of Lee/**Official Notice** discloses the limitations as shown in the rejections above.

Furthermore, Lee also discloses the following limitations:

- *comprising the step of providing an indicator to a user, the indicator based upon the determined identifier. (See at least Fig.6, Item 600)*

**As per Claim 23, 43:**

Combination of Lee/**Official Notice** discloses the limitations as shown in the rejections above.

Furthermore, Lee also discloses the following limitations:

- *wherein the indicator is at least one of: (i) a visual indicator that is at least one of a letter, a symbol, a term, a word, a phrase, a number, a color, a picture and a visual representation; and (ii) an audio indicator that is at least one of a sound, an alarm, an audio file, a digital sound, and an analog sound. (See at least Fig.6, Item 600)*

**As per Claim 27:**

Combination of Lee/**Official Notice** discloses the limitations as shown in the rejections above.

Furthermore, Lee also discloses the following limitations:

- *wherein the input mechanism is at least one of a direct-input device, a keyboard, a transmission device, a modem, a network and the Internet. (See at least Fig.1, Item 116, 121, 104)*

***Conclusion***

10. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).
11. A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Art Unit: 3691

Any inquiry of a general nature or relating to the status of this application or concerning this communication or earlier communications from the Examiner should be directed to **Edward Chang** whose telephone number is **571.270.3092**. The Examiner can normally be reached on Monday-Friday, 9:30am-5:00pm. If attempts to reach the examiner by telephone are unsuccessful, the Examiner's supervisor, **ALEXANDER KALINOWSKI** can be reached at **571.272.6771**.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://portal.uspto.gov/external/portal/pair> <<http://pair-direct.uspto.gov>>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at **866.217.9197** (toll-free).

Any response to this action should be mailed to:

**Commissioner of Patents and Trademarks**

P.O. Box 1450  
Alexandria, VA 22313-1450

or faxed to **571-273-8300**.

Hand delivered responses should be brought to the **United States Patent and Trademark Office Customer Service Window:**

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September 05, 2011  
/Edward Chang/ Examiner, Art Unit 3691

/Lalita M Hamilton/  
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